April 15, 2013

VIA EMAIL

United States House of Representatives
Committee on Ways and Means
Real Estate Tax Reform Working Group
tax.reform@mail.house.gov

Re: Section 1031 Like-Kind Exchanges

Ladies and Gentlemen:

I am writing to offer my perspective on Section 1031 of the Internal Revenue Code and detail how it serves as a job creator and an exceptionally efficient stimulant to our economy.

I am the President of the Federation of Exchange Accommodators, the national trade association for exchange facilitators, also known as Qualified Intermediaries ("QI"). I am also the owner of Iowa Property Exchange, L.L.C. ("IPE 1031"), a professional exchange facilitator company. Since starting my company in 2003, we have grown to be the largest independent provider of exchange accommodation services in the Midwest and one of the larger exchange accommodation companies in the country. Over the past 10 years, I have personally handled or overseen thousands of 1031 exchange transactions totaling billions of dollars in value. As a result, I am in a unique position to offer real world insight into how Section 1031 works and how it impacts our economy and taxpayers. In support of the vital role Section 1031 plays in our economy, I respectfully offer the following comments for your consideration:

Section 1031 stimulates investment in the US and creates jobs on shore

Section 1031 requires that the proceeds received from the sale of domestic real estate be reinvested in property within the United States. As a result, it serves as a critical stimulus to the real estate market and a vehicle to keep investment dollars, and correspondingly, jobs on our shores. As an example, a multinational manufacturer cannot shutter a US plant and exchange into a facility in Asia. Section 1031 serves as a strong incentive for multinationals, and all US taxpayers, to maintain and increase investments in the US.

Section 1031 is an efficient and powerful vehicle to continue investments

Having been enacted in 1921, and after withstanding the test of time for over 90 years, it is clear that Congress has historically recognized Section 1031 as an important part of the tax code. At its core, Section 1031 allows taxpayers to avoid falling into a "tax locked" position with

QUALIFIED
INTERMEDIARY
SERVICES

IOWA PROPERTY EXCHANGE L.L.C.
1922 INGERSOLL AVENUE
DES MOINES, IOWA 50309
515.279.1111 • 888.226.0400
FAX 515.279.8788
www.IPE1031.com

investment and business-use properties. Section 1031 promotes efficient use of capital and cash flow by allowing taxpayers to shift into more productive like-kind property, change geographic location, diversify or consolidate holdings, or otherwise transition to meet changes in business needs or lifestyle.

Section 1031 is a critical tool for farmers, as well as investors of all sizes and types

Section 1031 is used by investors of all sizes and types. Of transactions accommodated by IPE 1031 in 2012, I would estimate that over 95% of exchanging taxpayers would be classified as individual investors or small businesses with the average transaction size being less than $500,000. Additionally, in Iowa, Section 1031 is primarily used by farmers. Approximately 80% of IPE 1031's transactions involve either the purchase or sale of farm land assets. Section 1031's utility to farmers is demonstrated through the following examples:

- Section 1031 is overwhelmingly utilized by land owners and operators to combine acreage, acquire higher grade land or exchange into land that is closer to business operations.
- Many older land owners look to Section 1031 as a retirement tool allowing them to sell their largest asset, their farm or ranch, and reinvest into other forms of real estate without diminishing the value of their life savings.
- Section 1031 serves as a conduit for new and existing farmers and ranchers to acquire land from those who inherit farms and no longer want to farm or ranch.
- Agricultural equipment exchanges are undertaken by farmers and ranchers to acquire new assets that are more technologically advanced or better suited to their operation.
- Production livestock is exchanged under Section 1031 to increase the quality of the operation or to move operations from one location to another.

Academic and noted opinion leaders have stated in multiple instances that limits on Section 1031 would have a dramatic, negative impact on the agricultural community as a whole.

In the face of substantially higher capital gains taxes, Section 1031 serves as a safety valve. Its elimination or modification would cause substantial job losses in several industries.

Since enactment of the "American Taxpayer Relief Act," it will not be uncommon for taxpayers to pay taxes equal to 1/3 of their gain after factoring in a maximum federal capital gains tax rate of 25% (factoring in Medicare taxes and itemized deduction phase outs) and many state capital gains tax rates in excess of 10%. Short term gains, as well as gains due to depreciation, have the potential to substantially increase tax rates to between 40 and 50%. Without the availability of Section 1031 as a safety-valve, it is unquestionably clear that a significant percentage of owners of real and personal property assets will choose to hold versus selling their properties. The end result for REALTORS®; title agents; real estate closers; qualified intermediaries; vehicle, equipment and machinery manufacturers and dealers; and other affected stakeholders, will be a dramatic decline in transaction and sales volume.

By way of example, surveys of commercial and agricultural REALTORS® in the State of Iowa suggest that in 2013, Section 1031 will be utilized by either buyers or sellers in approximately 35% of transactions given increased capital gains tax rates. Further, these same REALTORS® estimate that a repeal of Section 1031 would result in at least a 1/3 reduction in transaction volume. Ultimately, fewer transactions will translate to fewer jobs in the real estate, construction, title insurance, mortgage and other related industries. For these groups, as well as those who invest in real estate, the stakes are high.

Section 1031 is not a loophole

Section 1031 is not a tax dodge. Section 1031 allows investors to generate additional equity so long as the investment stays in place. Capital gains taxes become due whenever taxpayers do not use all of the funds received from a sale or ultimately "cash out" of their property.

The exchange accommodation industry promotes compliance with Section 1031

Proposals have been made in the past to "simplify" IRC Section 1031 by shifting to a rollover. With absolute and unequivocal certainty, my real world experience leads me to conclude that elimination of current Section 1031 compliance requirements would cause a dramatic increase in tax expenditures. Exchange accommodators act as unofficial "gate keepers' for the IRS. The QI safe harbor provides a substantial benefit to the government because QI's promote compliance with Section 1031's requirements for proper exchange treatment.

Conclusions

Section 1031 serves as an important tax code provision that works efficiently and effectively in its current form. Section 1031 promotes investment and creates jobs in the US by incentivizing taxpayers to keep their dollars on shore. Taxpayers of all types, and not just the wealthy, benefit from its provisions, with farmers being the primary users in Iowa. Elimination of Section 1031 would result in substantial reductions in transactional velocity, thus harming the economy and causing job losses. Conversion of the code section to a rollover would cause substantially higher tax expenditures to the government and a high potential for abuse. As evidenced by having withstood the test of time, Section 1031 is one of the most valuable and beneficial tools in the tax code available to taxpayers and it serves as a strong stimulant to the real estate market and the economy generally.

Thank you for your consideration.

Sincerely,

David A. Brown
President